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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

DOUG WEINER et al.,

Plaintiffs and Respondents,

v.

CORNELIUS BILAL et al.,

Defendants and Appellants.

B290068

(Los Angeles County
Super. Ct. No. NC061158)

APPEAL from a judgment of the Superior Court of Los Angeles County, Dudley W. Gray II, Judge. (Retired judge of the L.A. Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Motaz M. Gerges for Defendants and Appellants.

Ferrucci Law Group and Joseph A. Ferrucci for Plaintiffs and Respondents.

Cornelius and Delores Bilal (the Bilals), trustees of the Cornelius and Delores Bilal 2010 Trust, appeal from a judgment after a bench trial, granting Doug Weiner and Roark Merrill (plaintiffs) a prescriptive easement over the Bilals' property. We affirm.

BACKGROUND

Plaintiffs own an apartment complex adjacent to the Bilals' property. Plaintiffs' tenants use a portion of the Bilals' property for parking. The tenants have parked on the Bilals' property since at least 2001, have assigned parking spaces, and have exclusive use of the parking area. Prior to January 2017, the Bilals were unaware they owned the land on which the parking area was located.

Plaintiffs filed a complaint against the Bilals to quiet title to an easement to park in the disputed area. Trial was originally set to begin in November 2017, but was continued three times, once per the parties' stipulation and twice at the Bilals' request. The second request to continue trial was made just 12 days before the trial date. The trial court granted the continuance to allow time for the Bilals to file a cross-complaint and to allow plaintiffs to take the deposition of Cornelius Bilal.

On the date set for trial, the Bilals asked for another continuance while plaintiffs moved to strike the cross-complaint. The Bilals' counsel argued that his clients were unavailable for trial because Cornelius Bilal was suffering from cancer and Delores Bilal was in charge of his care. The trial court denied the Bilals' request and granted plaintiffs' motion to strike the cross-complaint, which was unsigned, unverified, and never served on the plaintiffs. The case proceeded to a bench trial. Plaintiffs and one of their current tenants testified. Cornelius Bilal's discovery

admissions were also admitted. The trial court found in favor of plaintiffs, granting a parking easement over the Bilals' property.

DISCUSSION

The Bilals raise three contentions on appeal: (1) the trial court erred by denying their request to continue trial, (2) the trial court abused its discretion by striking their cross-complaint, and (3) the judgment is not supported by substantial evidence. The record does not support their contentions.

First, the determination of when a continuance should be granted rests within the sound discretion of the trial court (*Mahoney v. Southland Mental Health Associates Medical Group* (1990) 223 Cal.App.3d 167, 170), and must be based upon the facts and circumstances of the case as they exist at the time of the determination (*Bussard v. Department of Motor Vehicles* (2008) 164 Cal.App.4th 858, 864).

The record here contains scant details regarding the Bilals' request for a continuance. The Bilals did not include their request to continue trial nor the letter from Cornelius Bilal's physician in support. Instead, the Bilals cite plaintiffs' trial brief and an entry in the register of actions showing that a physician's letter was submitted. Neither citation provides any information about what the letter said. Therefore, we are left with the trial court's finding that Cornelius Bilal was suffering from cancer and could not attend trial, its grant of two prior continuances, and the Bilals' last-minute requests to continue trial. On this limited record, we find no abuse of discretion.

Second, the Bilals contend that the trial court abused its discretion when it struck their cross-complaint without leave to amend. (See *Pacific Gas & Electric Co. v. Superior Court* (2006) 144 Cal.App.4th 19, 23.) The Bilals cite only the general policy of

liberality in allowing of amendment of pleadings but fail to include facts or analysis as to why the trial court should have granted them leave to amend. They do not cite to any specific request for leave to amend nor do they explain how the pleading would have been amended. Where, as here, a party fails to support its contentions with reasoned argument and citations to authority, those contentions are waived. (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784–785.)

Third, the Bilals challenge the sufficiency of the evidence supporting the judgment. On appeal, the Bilals bear the burden of establishing that there is no substantial evidence to support the trial court’s findings. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 881.) “ ‘A party who challenges the sufficiency of the evidence to support a particular finding must summarize the evidence on that point, favorable and unfavorable, and show how and why it is insufficient.’ ” (*Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 738, italics omitted.) If an appellant fails to set forth all the material evidence, its claim of insufficiency of the evidence is waived. (*Baxter Healthcare Corp. v. Denton* (2004) 120 Cal.App.4th 333, 368.)

The Bilals do not include a recitation of the evidence at trial. Rather, they cite to the plaintiffs’ trial briefs, but not to any of the testimony or exhibits presented at trial. Hence, they have failed to meet their burden.

DISPOSITION

The judgment is affirmed. Doug Weiner and Roark Merrill
are awarded their costs on appeal.

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DHANIDINA, J.

We concur:

EDMON, P. J.

LAVIN, J.